

## REMARKS

Claims 1-30 are pending in this application.

Claims 1 - 20 stand allowed. Claims 21-30 stand rejected under 35 USC 101 as directed to non-statutory matter.

The Figures stand objected to for failing to include the elements recited in Claim 11 at Lines 21 through 26. The Specification stands objected to as failing to provide antecedent basis for the elements recited at Lines 21-26 of Claim 11.

Applicants have amended Claim 11 to delete the elements recited at Lines 21 through 26 as filed, and to recite the language set forth in the Specification and the Figures. No new matter has been entered. Reexamination and reconsideration of the application, as amended, is respectfully requested.

Applicants' invention comprises, *inter alia*, an article of manufacture comprising a computer readable medium having computer readable program code disposed therein to adjust the data transfer rate using the steps recited in FIG. 5. *See*, Specification at Page 32 / Lines 1-4. Claim 11 is directed to an article of manufacture comprising a first one of (N) primary backup appliances. *See*, Claim 11 at lines 1 through 3. Claim 11 is amended herein to recite, *inter alia*, "determining if said article of manufacture has the greatest (n)th time to complete among the (N) primary backup appliances." Support can be found in the Specification on Page 20 at Lines 19-21; and in FIG. 5 at step 535. Claim 11 is further amended herein to read "operative if said article of manufacture has the greatest (n)th time to complete among the (N) primary backup appliances: setting the (n)th delay to 0; and providing all or part of at least one consistent transactions set to said first secondary backup appliance using said (n)th delay."

Support can be found in the Specification on Page 20 / Line 21 through Page 21 / Line 6; and in FIG. 5 at steps 550 and 560.

Claim 21 is amended herein to recite a computer program product embodied in a computer readable medium. Support can be found in the Specification on Page 32 at Line 1 through 12.

Having dealt with all of the outstanding objections and/or rejections of the claims, Applicants submit that the application as amended is in condition for allowance, and an allowance at an early date is respectfully solicited. In the event there are any fee deficiencies or additional fees are payable, please charge them, or credit an overpayment, to our Deposit Account No. 502262.

Respectfully submitted,



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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on this 15<sup>th</sup> day of May, 2006, the Amendment A, is being filed via the Web Enabled Patent Filing System (EFT-WEB).

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